

ORDINANCE NO. 2003 - 040

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE INTRODUCTION AND ADMINISTRATION ELEMENT (TO INCORPORATE NEW LEGISLATION RELATED TO THE EVALUATION AND APPRAISAL REPORT (EAR)); AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17; and

WHEREAS, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners have initiated amendments to several elements of the Comprehensive Plan in order to promote the health, safety and welfare of the public of Palm Beach County; and

WHEREAS, the Palm Beach County Local Planning Agency conducted its public hearings on February 14 & 28, and March 14, 2003 to review the proposed amendments to the Palm Beach County Comprehensive Plan and made recommendations regarding the proposed amendments to the Palm Beach County Board of County Commissioners pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a public hearing pursuant to Chapter 163, Part II, Florida Statutes, on April 2, 2003 to review the recommendations of the Local Planning Agency, whereupon the Board of County Commissioners authorized transmittal of proposed amendments to the Department of Community Affairs for review and comment pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, Palm Beach County received on June 23, 2003 the Department of Community Affairs "Objections, Recommendations, and Comments Report," dated June 20, 2003 which was the Department's written review of the proposed Comprehensive Plan amendments; and

WHEREAS, on August 21, 2003 the Palm Beach County Board of County

Commissioners held a public hearing to review the written comments submitted by the Department of Community Affairs and to consider adoption of the amendments; and

WHEREAS, the Palm Beach County Board of County Commissioners has determined that the amendments as modified satisfy the concerns addressed in the Department of Community Affairs' "Objections, Recommendations and Comments Report" and comply with all requirements of the Local Government Comprehensive Planning and Land Development Regulations Act.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Part I. Amendments to the 1989 Comprehensive Plan

Amendments to the text of the following Element of the 1989 Comprehensive Plan are hereby adopted and attached to this Ordinance in Exhibit 1:

- A. Introduction and Administration Element, to incorporate new legislation related to the Evaluation and Appraisal Report (EAR);
- B. Amending all elements as necessary for internal consistency.

Part II. Repeal of Laws in Conflict

All local laws and ordinances applying to the unincorporated area of Palm Beach County in conflict with any provision of this ordinance are hereby repealed to the extent of such conflict.

Part III. Severability

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

Part IV. Inclusion in the 1989 Comprehensive Plan

The provision of this Ordinance shall become and be made a part of the 1989 Palm Beach County Comprehensive Plan. The Sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

1 Part V. Effective Date

2 The effective date of this plan amendment shall be the date a final
3 order is issued by the Department of Community Affairs or Administration
4 Commission finding the amendment in compliance in accordance with Section
5 163.3184(1)(b), Florida Statutes, whichever is applicable. No development
6 orders, development permits, or land uses dependent on this amendment may be
7 issued or commence before it has become effective. If a final order of
8 noncompliance is issued by the Administration Commission, this amendment may
9 nevertheless be made effective by adoption of a resolution affirming its
10 effective status, a copy of which resolution shall be sent to the Florida
11 Department of Community Affairs, Division of Community Planning, Plan
12 Processing Team. An adopted amendment whose effective date is delayed by law
13 shall be considered part of the adopted plan until determined to be not in
14 compliance by final order of the Administration Commission. Then, it shall no
15 longer be part of the adopted plan unless the local government adopts a
16 resolution affirming its effectiveness in the manner provided by law.

17 APPROVED AND ADOPTED by the Board of County Commissioners of
18 Palm Beach County, on the 21 day of August, 2003.

19 ATTEST:
20 DOROTHY H. WILKEN, Clerk

 PALM BEACH COUNTY, FLORIDA,
 BY ITS BOARD OF COUNTY COMMISSIONERS

21 By: [Signature]

22 By: [Signature]
23 Karen T. Marcus, Chair

24 APPROVED AS TO FORM AND LEGAL SUFFICIENCY

25 [Signature]
26 COUNTY ATTORNEY

27 Filed with the Department of State on the 28 day
28 of August, 2003.

29 T:\Planning\AMEND\03-1\admin\bccadopt\Ordinances\EAR ORC.doc
30
31
32
33
34
35

EXHIBIT 1

A. Introduction and Administration Element, Evaluation and Appraisal Report Procedures

REVISIONS: To revise and update. The revisions are numbered below, and shown with the added text underlined, and the deleted text ~~struck out~~.

~~III. Procedure For Evaluation And Appraisal Report in Compliance With Section 9j-5.0053~~

~~Each local government in Florida is required to periodically prepare, adopt and submit an Evaluation and Appraisal Report (EAR) of its comprehensive plan. The first EAR for the 1989 Comprehensive Plan was adopted by the Board of County Commissioners in 1996, and corrective amendments were made to the Comprehensive Plan in subsequent amendment rounds. This portion of the Comprehensive Plan outlines the general procedures to be followed in preparing the EAR in compliance with the laws of the State of Florida.~~

~~A. Citizen participation~~

~~This portion of the required EAR procedure shall duplicate the procedure used to obtain citizen input into the Plan itself, with changes to address changes in the local situation since Plan adoption. Public participation in the preparation and adoption of the 1989 Comprehensive Plan included citizen advisory committees to review and comment on elements, citizen information and input meetings, Board of County Commissioners Roundtable discussions, and public hearings prior to Plan adoption.~~

~~Since Plan adoption, the Land Use Advisory Board has been designated the Local Planning Agency by the Board of County Commissioners, and can serve the function of a citizen advisory committee. The citizen participation procedure for the EAR shall, therefore, include the following:~~

- ~~• Oversight committees for each element, consisting of interested citizens, existing advisory boards, and agency and departmental representatives to review and comment on staff-generated EAR assessments, and reports from Planning Division and implementing department/agency staff;~~
- ~~• The Local Planning Agency, acting as a citizen advisory committee, to review and coordinate the EAR for all elements at publicly noticed meetings;~~
- ~~• A BCC workshop to inform the Board of the findings of the EAR at that point at which time Planning Division and implementing department/agency staff shall present reports;~~
- ~~• A public hearing by the Local Planning Agency at transmittal of the EAR to the Board of County Commissioners and to the Florida Department of Community Affairs; and~~
- ~~• A public hearing of the BCC, at adoption of the EAR.~~

~~Each portion of the EAR that is prepared in response to the EAR requirements, listed below, will undergo public review through the process outlined above. The public participation procedures will be described and documented for inclusion in the EAR.~~

~~B. Updated baseline data~~

~~The County shall accomplish this task in accordance with the requirements of Section 9J-5.005(7)(b); the general procedure is as follows:~~

- ~~1. Prepare new existing conditions maps, including land use, traffic circulation, and natural resources maps, as of the date of the EAR, consistent with the requirements of Rule 9J-5.006(1) F.A.C.~~
- ~~2. Update the baseline conditions as described in the adopted Comprehensive Plan.~~

~~C. Accomplishments in the reporting period, describing the degree to which the Goals, Objectives and Policies have been successfully reached The County shall accomplish this task in accordance with the requirements of Section 9J-5.005(7)(c); the general procedure is as follows:~~

- ~~1. Review implementing department/agency reports regarding the degree to which the~~

~~Goals, Objectives and Policies have been successfully reached.~~

- ~~2. Prepare draft portion of EAR report dealing with completion of objectives and policies.~~

~~D. Obstacles or problems which resulted in underachievement of goals, objectives, or policies.~~

~~The County shall accomplish this task in accordance with the requirements of Section 9J-5.005(7)(d); the general procedure is as follows:~~

- ~~1. Review reports from implementing departments/agencies to identify underachieved five-year objectives and policies.~~
- ~~2. Request information from implementing departments/agencies regarding obstacles, problems, or changed conditions leading to underachievement of objectives and policies.~~
- ~~3. Prepare report.~~

~~E. New or modified Goals, Objectives and Policies needed to correct discovered problems.~~

~~The County shall accomplish this task in accordance with the requirements of Section 9J-5.005(7)(e); the general procedure is as follows:~~

- ~~1. Review updated baseline data, and accomplishments and problems in achievement of plan goals, objectives, or policies, and prepare an assessment, to be considered in conjunction with the other assessments and reports required in the EAR when identifying the actions that need to be taken to address the planning issues raised in the EAR, per Section (J) below.~~

~~F. A means of ensuring continuous monitoring and evaluation of the Plan during the five-year period.~~

~~This portion of the 9J-5.005(7)(f) requirements shall be complied with by the transmittal of Annual Reports on the status of the Comprehensive Plan to the BCC. The general procedure is outlined below:~~

- ~~1. Request from affected agencies and departments appropriate new data and information concerning the status of their assigned work tasks, objectives achieved, obstacles to achieving objectives, and newly revised or proposed Goals, Objectives and Policies.~~
- ~~2. Provide Annual Reports to BCC by December 31, commencing in 1998.~~

~~G. The extent to which unanticipated and unforeseen problems and opportunities occurred between the date of adoption and the date of the report.~~

~~The County shall accomplish this task in accordance with the requirements of Section 9J-5.005(7)(g); the general procedure is as follows:~~

- ~~1. Describe problems and opportunities identified in the citizen participation process for each element.~~
- ~~2. Prepare an assessment, to be considered in conjunction with the other assessments and reports required in the EAR when identifying the actions that need to be taken to address the planning issues raised in the EAR, per Section (J) below.~~

~~H. The effect on the Comprehensive Plan of changes to Chapter 187, F.S., the State Comprehensive Plan, Chapter 163, Pt. II, F.S.; the minimum criteria contained in Chapter 9J-5, F.A.C.; and the Treasure Coast Regional Planning Council Strategic Regional Policy Plan.~~

~~The County shall accomplish this task in accordance with the requirements of Section 9J-5.005(7)(h); the general procedure is as follows:~~

- ~~1. Identify changes made to Chapter 187, F.S., the State Comprehensive Plan, Chapter 163, Pt. II, F.S.; and the minimum criteria contained in Chapter 9J-5, F.A.C.; and the Treasure Coast Regional Planning Council Strategic Regional Policy Plan.~~
- ~~2. Prepare an assessment of the changes necessary for consistency, to be considered in conjunction with the other assessments and reports required in the EAR when identifying~~

~~the actions that need to be taken to address the planning issues raised in the EAR, per Section (J) below.~~

~~I. The major problems of development, physical deterioration, and the location of land uses and the social and economic effects of the major problems identified.~~

~~The County shall accomplish this task in accordance with the requirements of Section 9J-5.005 (7)(l); the general procedure is as follows:~~

- ~~1. Prepare an evaluation of the major problems of development experienced since adoption of the Comprehensive Plan.~~
- ~~2. Assess the social and economic effects of recent development trends and the major problems identified in the EAR.~~
- ~~3. Compile the results of all assessments prepared pursuant to this section for consideration in conjunction with the other assessments and reports required in the EAR when identifying the actions that need to be taken to address the planning issues raised in the EAR, per Section (J) below.~~

~~J. The identification of any actions that are taken or needed to be taken to address the planning issues identified in the report.~~

~~The County shall accomplish this task in accordance with the requirements of Section 9J-5.005 (7)(j); the general requirement is as follows:~~

- ~~1. Consider all of the assessments and reports prepared pursuant to the EAR preparation procedures, and draft proposed new and revised goals, objectives, and policies to address the issues raised in the EAR.~~
- ~~2. Evaluate the need to update future conditions maps, to be consistent with revised population projections and other findings of the EAR.~~
- ~~3. Evaluate the need to revise the Capital Improvements Element based on the findings in the EAR.~~
- ~~4. Identify other actions, such as monitoring or studies to be completed, to address the issues raised in the EAR for which data and detailed analyses are not available.~~

~~K. Proposed or anticipated Plan amendments necessary to address or implement the identified changes."~~

~~The County shall accomplish this task in accordance with the requirements of Section 9J-5.005 (7)(k); the general procedure is as follows:~~

- ~~1. Identify proposed Plan amendments based on the findings in the EAR.~~
- ~~2. Develop a schedule for transmittal and adoption of the identified Plan amendments within one year after adoption of the EAR.~~

III. Procedure for the Evaluation and Appraisal Report (EAR)

Each local government in Florida is required to prepare, adopt and submit an Evaluation and Appraisal Report (EAR) of its comprehensive plan once every seven years. The Board of County Commissioners adopted the first EAR for the 1989 Comprehensive Plan in 1996, and corrective amendments were made to the Comprehensive Plan in subsequent amendment rounds. This portion of the Comprehensive Plan outlines the general procedures to be followed in preparing the EAR in compliance with the laws of the State of Florida.

The EAR process is specified in detail in s. 163.3191, F.S., including the timing and sequence of activities to complete the EAR. The guidelines for the preparation, transmittal, adoption and sufficiency review of the EAR and EAR-based amendments are established in Rule 9J-11.018. The procedures for public participation are the ones adopted by the County in accordance with the public participation requirements of § 163.3181, F. S. for the comprehensive planning process. Public participation procedures may also include voluntary scoping meetings as encouraged in § 163.3191(3), F.S.

The EAR is a summary audit of the actions the local government has undertaken in the process to implement its Comprehensive Plan's goals, objectives and policies, and identifies changes

that should be made in the plan in response to changing trends and conditions and to changing state and regional growth management policies.

With assistance from state and regional agencies, adjacent local governments and the public, the evaluation begins with the identification of the major issues that will be the focus of the evaluation. The EAR should identify the changes that are needed in the plan as revealed by the evaluation of the successes and failures that have been experienced during the implementation of the plan. Changes in the Plan may also be needed to respond to new information about or trends within the community that have been revealed during the evaluation and appraisal process.

The EAR will evaluate and assess the Comprehensive Plan and include recommendations to update the Comprehensive Plan related to the following topics, making emphasis on the major issues affecting the community at the time of the EAR as identified by the County:

- a) Population growth and changes in land area;
- b) The extent of vacant and developable land;
- c) The location of existing development in relation to the location of development as anticipated in the plan;
- d) The financial feasibility of providing needed infrastructure to achieve and maintain adopted levels of service standards and sustain concurrency through capital improvements, as well as the ability to address infrastructure backlogs and meet the demands of growth to public services and facilities;
- e) The identification of major issues and, where pertinent, the potential social, economic, and environmental impacts of these issues;
- f) An assessment of whether plan objectives within each element, as they relate to major issues, have been achieved, and whether unforeseen and unanticipated changes in circumstances have resulted in problems and opportunities in each element with respect to major issues;
- g) An assessment of the success or failure of coordination future land uses and residential development with the capacity of existing and planned schools; establishing with the school board appropriate population projections; and coordinating the planning and siting of new schools;
- h) An assessment of the comprehensive plan with respect to the water management district's regional water supply plan, including whether the potable water element should be revised to include a work plan, covering at least a 10-year period, for building water supply facilities for which the local government is responsible that are needed to serve existing and projected development;
- i) An assessment of the impacts of the County's Comprehensive Plan, evaluating the preservation and conservation of all natural resources, including but not limited to: fresh and marine water resources, air quality, natural lands and native flora and fauna.
- j) An evaluation of whether any past reduction in land use density within the coastal high-hazard area impairs the property rights of current residents when redevelopment occurs. The local government must identify strategies to address redevelopment and the rights of affected residents balanced against public safety considerations.
- k) A brief assessment of successes and shortcomings related to each element;
- l) Relevant changes in growth management laws (the state comprehensive plan, the appropriate Strategic Regional Policy Plan, Chapter 163, Part II, FS., and Chapter 9J-5, F.A.C.);
- m) Any actions or corrective measures, including whether plan amendments are anticipated to address the major issues identified and analyzed in the report. Such identification shall include, as appropriate, new population projections, new revised planning time-frames, a revised future conditions map or map series, an updated capital improvements element, and any new and revised goals, objectives and policies within each element for the major issues identified; and
- n) A summary of public participation activities in preparing the report;